

**PLANNING BOARD
RESOLUTION No. 2013-35**

**A RESOLUTION OF THE CITY OF KEY WEST
PLANNING BOARD FOR VARIANCES
APPROVAL FOR BUILDING COVERAGE,
FRONT, SIDE AND REAR-YARD SETBACK
REQUIREMENTS AND DETACHED
HABITABLE SPACE FOR PROPERTY
LOCATED AT 1014 JOHNSON STREET
(RE#00058630-000000, AK# 1059111) IN THE
SINGLE-FAMILY RESIDENTIAL ZONING
DISTRICT, PER SECTION 122-28, 122-238 AND
SECTION 122-1078 OF THE LAND
DEVELOPMENT REGULATIONS OF THE
CODE OF ORDINANCES OF THE CITY OF
KEY WEST.**

WHEREAS, the existing structure has a legal non-conforming building coverage, front, side and rear-yard setbacks; and

WHEREAS, Section 122-238 of the Code of Ordinances provides that the maximum building coverage allowed is 30%, minimum allowed front-yard setback is 30 feet, side-yard setback is 5 feet and rear-yard setback is 25 feet; and

WHEREAS, existing building coverage is 35%, front-yard setback is 28.66 feet, side-yard setback is 1.9 feet and rear-yard setback is 5 feet; and



Chairman



Planning Director

WHEREAS, the applicant requested a variance to these existing legal non-conformities; and

WHEREAS, Section 122-1078 of the Code of Ordinances requires that all habitable space be accessible from the interior of the exterior walls; and

WHEREAS, the applicant requested a variance to detached habitable space; and

WHEREAS, this matter came before the Planning Board at a duly noticed public hearing on July 24, 2013; and

WHEREAS, the Planning Board finds that special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other land, structures or buildings in the same district; and

WHEREAS, the Planning Board finds that the special conditions do not result from the action or negligence of the applicant; and

WHEREAS, the Planning Board finds that granting the variances requested will not confer upon the applicant any special privileges denied by the land development regulations to other lands, buildings or structures in the same zoning district; and


Chairman

Planning Director

WHEREAS, the Planning Board finds that literal interpretation of the provisions of the land development regulations would deprive the applicant of rights commonly enjoyed by other properties in this same zoning district under the terms of this ordinance and would work unnecessary and undue hardship on the applicant; and

WHEREAS, the Planning Board finds that the variances granted are the minimum variances that will make possible the reasonable use of the land, building or structure; and

WHEREAS, the Planning Board finds that the granting of the variances will be in harmony with the general intent and purpose of the land development regulations and that such variances will not be injurious to the area involved or otherwise detrimental to the public interest or welfare; and

WHEREAS, the Planning Board finds that no nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted use of lands, structures or buildings in other districts shall be considered grounds for the issuance of any variances; and

WHEREAS, the Planning Board finds that the applicant has demonstrated a “good neighbor policy” by contacting or making a reasonable attempt to contact all noticed property owners who have objected to the variances application, and by addressing the objections expressed by those neighbors;

 Chairman
 Planning Director

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the City of Key West,
Florida:


Section 1. That the above recitals are incorporated by reference as if fully set forth herein.

Section 2. An approval by resolution of the Key West Planning Board for variances to allow the construction of a second floor on the principle structure and for detached habitable space per plans received April 5, 2013, for property located at 1014 Johnson Street (RE# 00058630-000000, AK 1059111) in the SF zoning district per Sections 122-238(4)a., 122-238(6)a. 1., 2. & 3. and 122-1078 of the Land Development Regulations of the Code of Ordinances of the City of Key West with the following conditions:

1. The garage will be converted into a car port for access all around the building for Fire Department access
2. The detached habitable structure shall not have cooking facilities nor be held out for rent and that there be a deed restriction put in place to that end.
3. That a revised plan set be submitted to the Planning Department showing modifications to the garage into a car port

Section 3. It is a condition of these variances that full, complete, and final application for all conditions of this approval for any use and occupancy for which these variances are wholly or partly necessary, shall be submitted in their entirety within two years after the date hereof; and further, that no application shall be made after expiration of the two-year period without the applicant obtaining an extension from the Planning Board and demonstrating that no change of circumstances to the

 Chairman

 Planning Director



property or its underlying zoning has occurred.

Section 4. The failure to fully and completely apply the conditions of approval for permits for use and occupancy pursuant to these variances in accordance with the terms of the approval as described in Section 3 hereof, shall immediately operate to terminate these variances, which variances shall be of no force or effect.

Section 5. These variances do not constitute a finding as to ownership or right to possession of the property, and assumes, without finding, the correctness of applicant's assertion of legal authority respecting the property.

Section 6. This Resolution shall go into effect immediately upon its passage and adoption and authentication by the signatures of the presiding officer and the Clerk of the Commission.

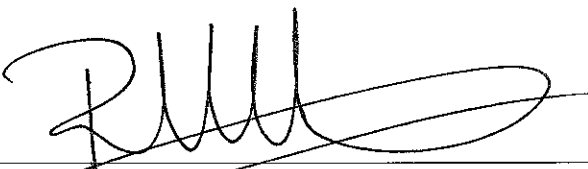
Section 7. This resolution is subject to appeal periods as provided by the City of Key West Code of Ordinances (including the Land Development Regulations). After the City appeal period has expired, this permit or development order will be rendered to the Florida Department of Economic Opportunity. Pursuant to Chapter 9J-1, F.A.C., this permit or development order is not effective for forty five (45) days after it has been properly rendered to the DEO with all exhibits and applications attached to or incorporated by reference in this approval; that within the forty five (45) day review period the DEO can appeal the permit or development order to the Florida Land and

 Chairman
 Planning Director

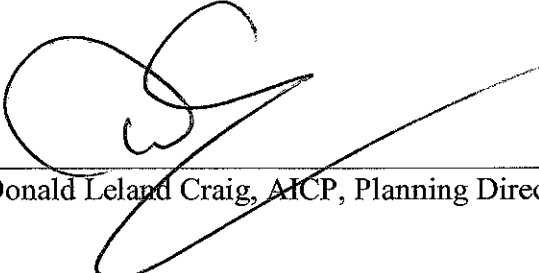
Water Adjudicatory Commission; and that such an appeal stays the effectiveness of the permit until the appeal is resolved by agreement or order.

Read and passed on first reading at a regularly scheduled meeting held this 24th day of July, 2013.

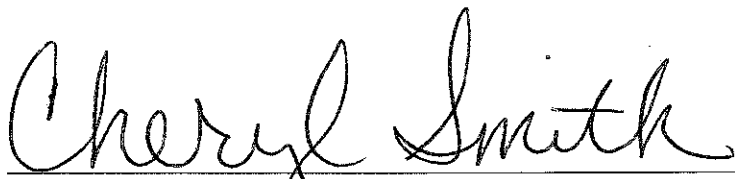
Authenticated by the Chairman of the Planning Board and the Planning Director;



Richard Kliteniek, Planning Board Chairman
8/14/2013
Date

Attest:


Donald Leland Craig, AICP, Planning Director
8-13-13
Date

Filed with the Clerk:


Cheryl Smith, City Clerk
8-16-13
Date

Chairman
 _____
Planning Director

